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**From:**

**Sent:** Thursday, August 30, 2012 9:14:00 AM


**To:**

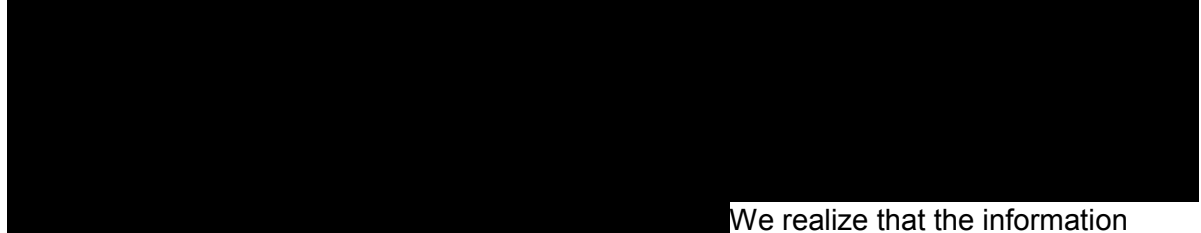
**Cc:**

**Subject:** Review of memo dealing with section 1031 ( )

[The referenced memo is withheld in full. The comments are provided below.]

Comment 1:

We are not able to either agree or disagree with the memo at this point because the facts are still somewhat unclear, as noted in the following comment bubbles. 



We realize that the information provided by the taxpayer has been difficult to put together.

In the analysis, it's not clear whether you're arguing that taxpayer had actual receipt or constructive receipt of the funds from the sale of the relinquished property. A better understanding of the facts will dictate which argument to make.

We'd be happy to discuss the points we raise with you and/or review another draft document.

Comment 2:

Does Taxpayer own the cars that are leased to  
sublessor?

? Is Taxpayer a

Comment 3:

Did Taxpayer get the \$ first and then transfer it to the QI or were the sales contracts assigned to the QI?

Comment 4:

(a/k/a ). We should note that, under the  
which provides rules governing the , the  
taxpayer's rights are restricted. I think the key point here is that, although the

satisfies the §1031 requirement (i.e., restriction on TP's rights), the following transfers of the funds to different accounts and the agreement governing such subsequent accounts (i.e. the ) defeat the restrictions in the .

Comment 5:

In what respect restricted? Explain briefly.

Comment 6:

Note here that pursuant to the , the funds are automatically and daily transferred to the . We also want to point out that the provides rules governing this account, and pursuant to such account, Taxpayer seems to control the funds.

Comment 7:

Lenders include and , correct? See the preamble. Who is lender and who is borrower?

Comment 8:

Also point out that some sales proceeds can be directly received by Taxpayer and deposited into the . See . Obviously if that is the case, there is no successful §1031 exchange.

Comment 9:

Cars owned by Taxpayer?

Comment 10:

IDR #8 says that transfers to repayment account are initiated by , not taxpayer.

Comment 11:

What document controls the is part of ? IDR #17 says that , correct?

Comment 12:

Loan to whom? Who is lender? From preamble to and the , it looks like and and others are the lenders and taxpayer is borrower. Please spell this out.

Comment 13:

This sentence should be illustrated a little more. How did Taxpayer use the funds? Did they receive money first? Did they direct the account to make payments without involving the QI?

Comment 14:

Why the term “beneficiaries”? Did taxpayer purchase the vehicles from the entities listed in the chart? Or are the entities on the chart lenders? Are these loan repayments or purchases? In the , term “beneficiary” is used for lender.

Comment 15:

We should point out that in a series of transfer of the funds, the limitation of the becomes ineffective.

Comment 16:

We can also point out that the escrow holder is a disqualified person under §1.1031(k)-1(g)(3)(ii). We should describe §1.1031(k)-1(g)(3)(ii) and explain how such section applies here.

Comment 17:

This statement implies that Taxpayer received cash and used the cash to acquire replacement properties. Is that right?